



IFW 3763

PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/845,162
	Filing Date	May 1, 2001
	First Named Inventor	WAHR
	Art Unit	3763
	Examiner Name	MENDEZ, MANUEL
Total Number of Pages in This Submission	Attorney Docket Number	891,144-005

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): - Communication Regarding Request for Clarification - Receipt Verification Postcard
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	O'MELVENY & MYERS LLP		
Signature	<i>Diane K. Wong</i>		
Printed name	Diane K. Wong		
Date	August 22, 2006	Reg. No.	54,550

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Signature	<i>Cynthia B. Pacheco</i>		
Typed or printed name	Cynthia B. Pacheco	Date	August 22, 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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Patent
Attorney Docket No. 891,144-005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

WAHR et al.

Serial No.: 09/845,162

Filed: May 1, 2001

For: **EMBOLI PROTECTION DEVICES AND
RELATED METHODS OF USE**

Group Art Unit: 3763

Examiner: MENDEZ, MANUEL

COMMUNICATION REGARDING REQUEST FOR CLARIFICATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Request for Clarification dated August 11, 2006, Applicants would like to confirm that only one (1) Request for Continued Examination was submitted on **May 23, 2006**.

On May 23, 2006, Applicants filed, via facsimile, a Petition Under 37 C.F.R. §1.313(c)(2) ("Petition"). A copy of the Petition is attached hereto as **EXHIBIT A**. In the Petition, Applicants advised that a copy of the Request for Continued Examination ("RCE"), attached as Exhibit A and stamped "COPY," was also being filed on May 23, 2006. A copy of the RCE as filed with the USPTO on May 23, 2006 is attached hereto as **EXHIBIT B**. As shown on the stamped receipt verification postcard, the RCE was received in the USPTO on **May 26, 2006**.

On May 24, 2006, the Office of Petitions mailed its Decision Granting Petition Under 37 CFR 1.313(c)(2) ("Decision"). A copy of the Decision is attached hereto as **EXHIBIT C**.

CERTIFICATE OF MAILING (37 C.F.R. §1.8a)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class Mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

August 22, 2006
Date of Deposit
NB1:693415.1

Cynthia B. Pacheco
Cynthia B. Pacheco

The Commissioner is hereby authorized to charge Deposit Account No. **50-2862** for any fees that may be required with this submission.

Respectfully submitted,

O'MELVENY & MYERS LLP

Dated: August 22, 2006

By: Diane K Wong
Diane K. Wong
Reg. No. 54,550
Attorneys for Applicants

O'Melveny & Myers LLP
610 Newport Center Drive, 17th Floor
Newport Beach, CA 92660-6429
(949) 760-9600

SENT

O'MELVENY & MYERS LLP

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FAX TRANSMITTAL

DATE & TIME:

Tuesday, May 23, 2006

TOTAL NUMBER OF PAGES:

23

TO:

Examiner Manuel Mendez
U.S. Patent Office, Art Unit 3763

FAX NUMBER:

(571) 273-0025

TELEPHONE NUMBER:

(571) 272-4962

FROM:

Diane K. Wong, Reg. No. 54,550

RETURN FAX NUMBER:

(949) 737-2300

TELEPHONE NUMBER:

(949) 737-2900

MESSAGE

Re: **Wahr et al.**
U.S. Application Serial No. 09/845,162

Attorney Docket No. 891,144-005

Document(s) attached:

- Transmittal Form 1 page
- Petition under 37 C.F.R. §1.313(C)(2) for Withdrawal from Issue 21 pages

MAY 23 PM 4:18

IF YOU DID NOT RECEIVE ALL PAGES, PLEASE CALL OUR FAX DEPARTMENT AT (949) 823-6961.

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RESPONSIBLE ATTY NAME:	Diane K. Wong	LOCATION:	1637D
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Exhibit A

Page 1

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TO:

Examiner Manuel Mendez
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FAX NUMBER:

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FROM:

Diane K. Wong, Reg. No. 54,550

RETURN FAX NUMBER:

(949) 737-2300

TELEPHONE NUMBER:

(949) 737-2900

MESSAGE

Re: Wahr et al.
U.S. Application Serial No. 09/845,162

Attorney Docket No. 891,144-005

Document(s) attached:

- Transmittal Form 1 page
- Petition under 37 C.F.R. §1.313(C)(2) for Withdrawal from Issue 21 pages

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TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	09/845,162	
	Filing Date	May 1, 2001	
	First Named Inventor	WAHR	
	Art Unit	3763	
	Examiner Name	Manuel Mendez	
Total Number of Pages in This Submission	22	Attorney Docket Number	891,144-005

ENCLOSURES (Check all that apply)		
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Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	O'MELVENY & MYERS LLP		
Signature	<i>Diane K. Wong</i>		
Printed name	Diane K. Wong		
Date	May 23, 2006	Reg. No.	54,550

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I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Signature	<i>Cynthia B. Pacheco</i>		
Typed or printed name	Cynthia B. Pacheco	Date	May 23, 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

WAHR et al.

Serial No.: 09/845,162

Filed: May 1, 2001

For: EMBOLI PROTECTION DEVICES
AND RELATED METHODS OF USE

Group Art Unit: 3763

Examiner: MENDEZ, MANUEL A.

PETITION UNDER 37 C.F.R. §1.313(C)(2) FOR WITHDRAWAL FROM ISSUE

SENT VIA FACSIMILE (571) 273-0025

Mail Stop 313(c)
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants hereby petition to withdraw the above-referenced application from issue as provided by paragraph 37 C.F.R. § 1.313(c)(2). Applicant has submitted the Request for Continued Examination ("RCE"), accompanied by an Information Disclosure Statement, on May 23, 2006. A copy of said RCE and enclosures is attached herewith as Exhibit A.

The issue and publication fees (\$1,000) were paid on October 20, 2005. A copy of the signed Fee Transmittal is attached herewith as Exhibit B. Applicants further request that the previously

CERTIFICATE OF MAILING (37 C.F.R. §1.8)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being transmitted by facsimile to (571) 273-0025 on the date shown below and addressed to the Commissioner for Patents, PO Box 1450 Alexandria, VA 22313-1450.

May 23 2006
Date of Deposit
NBI:685417.1

Cynthia B. Pacheco
Cynthia B. Pacheco

submitted fees be applied toward payment of issue and publications fees in the amount identified on a future Notice of Allowance and Fee(s) Due.

The Commissioner is hereby authorized to charge the petition fee (\$130.00) and any additional fees that may be required to Deposit Account No. 50-2862.

Respectfully submitted,

O'MELVENY & MYERS LLP

Dated: May 23, 2006

By: Diane K. Wong
Diane K. Wong
Reg. No. 54,550
Attorneys for Applicants

DKW/cp
O'MELVENY & MYERS LLP
610 Newport Center Drive, 17th Floor
Newport Beach, CA 92660-6429
(949) 760-9600

EXHIBIT A

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Request for Continued Examination (RCE) Transmittal

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	09/845,162
Filing Date	May 1, 2001
First Named Inventor	WAHR
Art Unit	3763
Examiner Name	MENDEZ, MANUEL A.
Attorney Docket Number	891,144-005

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

- a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
- i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
- ii. ☐ Other _____
- b. ☒ Enclosed
- i. ☐ Amendment/Reply
- ii. ☐ Affidavit(s)/Declaration(s)
- iii. ☒ Information Disclosure Statement (IDS)
- iv. ☐ other _____

2. Miscellaneous

Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for

- a. ☐ period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
- b. ☐ Other _____

3. Fees

The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

The Director is hereby authorized to charge the following fees any underpayment of fees or credit any overpayments to

- a. ☒ Deposit Account No. 50-2862 . I have enclosed a duplicate copy of this sheet.
- i. ☐ RCE fee required under 37 CFR 1.17(e)
- ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17)
- iii. ☐ Other _____
- b. ☐ Check in the amount of \$ _____ enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Signature	<i>Diane K. Wong</i>	Date	May 23, 2006
Name (Print/Type)	Diane K. Wong	Registration No.	54,550

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below:

Signature	<i>Cynthia B. Pacheco</i>	Date	May 23, 2006
Name (Print/Type)	Cynthia B. Pacheco		

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

In completing the form, please refer to the instructions on the back of the form and select option 2.

Exhibit A

Page 7

Exhibit A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

COPY

In re the Application of:

WAHR et al.

Serial No.: 09/845,162

Filed: May 1, 2001

For: EMBOLI PROTECTION DEVICES
AND RELATED METHODS OF USE

Group Art Unit: 3763

Examiner: MENDEZ, MANUEL A.

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

COPY

In accordance with 37 CFR §§ 1.97 and 1.98, the items identified in this Information Disclosure Statement ("IDS") are brought to the attention of the Office. The items are listed on the attached form PTO-SB/08. Also attached is a copy of an International Search Report for a related application. Please note that the references included in said International Search Report have been cited in Information Disclosure Statement(s) previously submitted.

The items identified in this IDS may or may not be "material" pursuant to 37 CFR § 1.56. The submission thereof by Applicant is not to be construed as an admission that any such patent, publication or other information referred to therein is material or considered to be material (37 CFR § 1.97(h)), or even qualifies as "prior art" under 35 USC § 102 with respect to this invention unless specifically designated by Applicant as such.

INFORMATION DISCLOSURE STATEMENT FILING PROVISION:

- ☒ This IDS is believed to be timely in that it is being submitted under 37 CFR § 1.97(b), that is (1) within three months of the filing date of the application, which is not a continued prosecution

CERTIFICATE OF MAILING (37 C.F.R. §1.8)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class mail in an envelope addressed to the Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

May 23, 2006
Date of Deposit
NB1:680526.1

COPY

Cynthia B. Pacheco
Cynthia B. Pacheco

COPY

application filed under § 1.53(d); or (2) within three months of entry of the national stage as set forth in 37 CFR § 1.491; or (3) before the mailing of a first Office action on the merits; or (4) before the mailing of a first Office action after filing a request for continued examination under § 1.114. Thus, no fee is required.

- ☐ However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and charge the fee due under 37 CFR § 1.17(p) to the deposit account referenced below.
- ☐ However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and a statement under 37 CFR § 1.97(e) is included below, thus no fee is required.
- ☐ This IDS is being submitted under 37 CFR § 1.97(c), that is after mailing of a first Office action on the merits, but before a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311.
 - ☐ The fee due under 37 CFR § 1.17(p) is submitted herewith.
 - ☐ A statement under 37 CFR § 1.97(e) is included below, thus no fee is required. In the event that this IDS is not received before a Final Action or a Notice of Allowance, then Applicant respectfully requests that the Office consider the filing of these papers to be submitted under 37 CFR § 1.97(d) and charge the fee due under 37 CFR § 1.17(p) to the deposit account below.
- ☐ This IDS is being submitted under 37 CFR § 1.97(d), that is after a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311, but before payment of the issue fee. A statement under 37 CFR § 1.97(e) is included below. The fee due under 37 CFR § 1.17(p) is submitted herewith.

Statement Under 37 CFR § 1.97(e):

- ☐ Each item contained in this IDS was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS.
- ☐ No item contained in this IDS was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing this statement after making reasonable inquiry, no item of information contained in this IDS was known to any individual designated in 37 CFR § 1.56(c) more than three months prior to the filing of this IDS.

COPY

COPY

Patent US 207
Attorney Docket No. 891,144-005

PAYMENT AND/OR AUTHORIZATION TO CHARGE FEES:

- ☐ A check in the amount of \$180.00 is enclosed for the above fee(s).
☐ Please charge \$180.00 to Deposit Account No. **50-2862** for the above fee(s).

The Commissioner is authorized to charge any fees required by the filing of these papers, and to credit any overpayment to O'Melveny and Myers' Deposit Account No. **50-2862**.

Respectfully submitted,

O'MELVENY & MYERS LLP

Dated: May 23, 2006

By: Diane K. Wong

Diane K. Wong
Reg. No. 54,550
Attorneys for Applicant

DKW

O'MELVENY & MYERS LLP
610 Newport Center Drive, 17th Floor
Newport Beach, CA 92660-6429
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NB1:680526.1

PATENT COOPERATION TREATY
PCT

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INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference 8386.3-2304	FOR FURTHER ACTION see Notification of Transmittal of International Search Report (Form PCT/ISA/220) as well as, where applicable, item 5 below.	
International application No. PCT/US 02/ 28141	International filing date (day/month/year) 26/09/2002	(Earliest) Priority Date (day/month/year) 09/08/2002
Applicant VELOCIMED, L. L. C.		

This International Search Report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This International Search Report consists of a total of 10 sheets.
☐ It is also accompanied by a copy of each prior art document cited in this report.

1. Basis of the report

a. With regard to the language, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ the international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).

b. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international search was carried out on the basis of the sequence listing :

☐ contained in the international application in written form.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority in written form.

☐ furnished subsequently to this Authority in computer readable form.

☐ the statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.

☐ the statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished

2. ☒ Certain claims were found unsearchable (See Box I).

3. ☒ Unity of invention is lacking (see Box II).

4. With regard to the title,

☒ the text is approved as submitted by the applicant.

☐ the text has been established by this Authority to read as follows:

5. With regard to the abstract,

☒ the text is approved as submitted by the applicant.

☐ the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box III. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. The figure of the drawings to be published with the abstract is Figure No.

☐ as suggested by the applicant.

☐ because the applicant failed to suggest a figure.

☐ because this figure better characterizes the invention.

☒ None of the figures.

COPY

INTERNATIONAL SEARCH REPORT

International application No.
PCT/US 02/28141

Box I Observations where certain claims were found unsearchable (Continuation of item 1 of first sheet)

This International Search Report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:

1. ☒ Claims Nos.: **89-118, 140-143, 147-153, 155-158**
because they relate to subject matter not required to be searched by this Authority, namely:
Rule 39.1(iv) PCT - Method for treatment of the human or animal body by surgery
2. ☐ Claims Nos.:
because they relate to parts of the International Application that do not comply with the prescribed requirements to such an extent that no meaningful International Search can be carried out, specifically:
3. ☐ Claims Nos.:
because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a).

Box II Observations where unity of invention is lacking (Continuation of item 2 of first sheet)

This International Searching Authority found multiple inventions in this International application, as follows:

see additional sheet

1. ☐ As all required additional search fees were timely paid by the applicant, this International Search Report covers all searchable claims.
2. ☐ As all searchable claims could be searched without effort justifying an additional fee, this Authority did not invite payment of any additional fee.
3. ☐ As only some of the required additional search fees were timely paid by the applicant, this International Search Report covers only those claims for which fees were paid, specifically claims Nos.:
4. ☒ No required additional search fees were timely paid by the applicant. Consequently, this International Search Report is restricted to the invention first mentioned in the claims; it is covered by claims Nos.:
1-23, 144

Remark on Protest

- ☐ The additional search fees were accompanied by the applicant's protest.
☐ No protest accompanied the payment of additional search fees.

FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 210

This International Searching Authority found multiple (groups of) inventions in this international application, as follows:

1. claims: 1-23,144

Evacuation sheath assembly comprising three lumens, first and second sealing surfaces and a shaft.

2. claims: 24-42

Evacuation sheath assembly with a distal sealing surface including a proximal cone portion and a distal cone portion

3. claims: 43,44

Evacuation sheath assembly wherein the proximal end of the evacuation lumen is angled and includes a reverse bevel portion

4. claims: 45-58

Evacuation sheath assembly wherein the open proximal end of the evacuation lumen includes a structure to reinforce the proximal opening of the elongated tube

5. claims: 59-64,123-125

Evacuation sheath assembly with a kink-resistant coil and a marker band

6. claims: 65,66

Evacuation sheath assembly wherein the distal sealing surface extends distally beyond the distal end of the evacuation lumen

7. claims: 67-88

Combination for isolating fluid communication between a blood vessel and a catheter with a three-arm adaptor

8. claims: 119-122,128-136

Evacuation sheath assembly with a elongate hollow member wherein the proximal end is flared

FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 210

9. claims: 126,127

aims: 126,127

Combination for isolating fluid communication between a
blood vessel and a catheter with an obturator between a
---atheter with an obturator

10. claims: 137-139

laims: 137-139

Combination for isolating fluid communication between a
blood vessel and a catheter with an obturator wherein the
distal end includes a balloon with an obturator wherein the
---a balloon

11. claims: 145,146,154

laims: 145,146,154

Combination for isolating fluid communication between a
blood vessel and a catheter with an infusion catheter a
---atheter with an infusion catheter

FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 210

Continuation of Box I.1

Claims Nos.: 89-118,140-143,147-153,155-158

Rule 39.1(iv) PCT - Method for treatment of the human or animal body by surgery

COPY

The applicant's attention is drawn to the fact that claims relating to inventions in respect of which no international search report has been established need not be the subject of an international preliminary examination (Rule 66.1(e) PCT). The applicant is advised that the EPO policy when acting as an International Preliminary Examining Authority is normally not to carry out a preliminary examination on matter which has not been searched. This is the case irrespective of whether or not the claims are amended following receipt of the search report or during any Chapter II procedure. If the application proceeds into the regional phase before the EPO, the applicant is reminded that a search may be carried out during examination before the EPO (see EPO Guideline C-VI, 8.5), should the problems which led to the Article 17(2) declaration be overcome.

INTERNATIONAL SEARCH REPORT

International Application No

PCT/US 02/28141

A. CLASSIFICATION OF SUBJECT MATTER
IPC 7 A61B17/12 A61M25/10

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

IPC 7 A61B A61M

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EP0-Internal

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 6 423 032 B2 (PARODI JUAN CARLOS) 23 July 2002 (2002-07-23) column 9, line 23 - line 65; figures 6A,6B	1-4
	-----	5-12,14
A	US 5 108 414 A (ENDERLE JOYCE A ET AL) 28 April 1992 (1992-04-28) figure 3	5-12
Y	-----	13
Y	US 2001 037085 A1 (EUTENEUER CHARLES L ET AL) 1 November 2001 (2001-11-01) page 50, paragraph 5; figure 4	14
A	-----	16
A	US 5 453 099 A (KARAKELLE MUTLU ET AL) 26 September 1995 (1995-09-26) column 3, line 30 - line 36; figure 4	

	-/--	

☒ Further documents are listed in the continuation of box C.

☒ Patent family members are listed in annex.

* Special categories of cited documents :

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"P" document published prior to the international filing date but later than the priority date claimed

"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.

"A" document member of the same patent family

Date of the actual completion of the international search

7 April 2003

Date of mailing of the international search report

10. 09. 2003

Name and mailing address of the ISA

European Patent Office, P.B. 5818 Patentlaan 2
NL - 2280 HV Rijswijk
Tel. (+31-70) 340-2040, Tx. 31 651 epo nl
Fax: (+31-70) 340-3016

Authorized officer

Ducreau F.

INTERNATIONAL SEARCH REPORT

International Application No

PCT/US 02/28141

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
A	WO 00 44429 A (MICRO THERAPEUTICS INC) 3 August 2000 (2000-08-03) page 5, line 17 - page 6, line 15; figure 2	20,22
A	----- US 2002 022859 A1 (HOGENDIJK MICHAEL) 21 February 2002 (2002-02-21) figure 2C	1,3
A	----- US 6 398 773 B1 (BAGAOISAN CELSO J ET AL) 4 June 2002 (2002-06-04) column 8, line 52 - column 9, line 29; figures 5-7B	1
A	----- US 6 126 635 A (SIMPSON JOHN B ET AL) 3 October 2000 (2000-10-03) the whole document	1

NATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/US 02/28141

Patent document cited in search report	Publication date	Patent family member(s)	Publication date
US 6423032	B2	22-11-2001	US 6206868 B1 27-03-2001
			US 2001044598 A1 22-11-2001
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Information on patent family members

International Application No

PCT/US 02/28141

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210 (patent family annex) (July 1992)

INTERNATIONAL SEARCH REPORT
Information on patent family members

International Application No
PCT/US 02/28141

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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Substitute for form 1449A-PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Use as many sheets as necessary)				Complete If Known	
				Application No.	09/845,162
				Filing Date	May 1, 2001
				First Named Inventor	WAHR
				Art Unit	6763
				Examiner Name	M. Mendez
Sheet	1	of	2	Attorney Docket No.	891,144-005

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. ¹	Document No. Number-Kind Code ² (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
	1.	us-20020177800	11/2002	Bagaoisan	
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	4.	us-20040092869	05/2004	Venturelli	
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	13.	us-6,080,170	06/2000	Nash	
	14.	us-6,524,323	02/2003	Nash	
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	21.	us-6,786,888	09/2004	Zadno-Azizi	
	22.	us-6,790,204	09/2004	Zadno-Azizi	
	23.	us-6,805,692	10/2004	Muni	
	24.	us-6,827,701	12/2004	MacMahon	
	25.	us-6,830,577	12/2004	Nash	
	26.	us-6,843,797	1/2005	Nash	
	27.	us-6,905,505	06/2005	Nash	

Examiner
Signature

NB1:680535.1

Date
Considered

*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. 1 Applicant's unique citation designation number (optional). 2 See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. 3 Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). 4 For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. 5 Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. 6 Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

Exhibit A

Page 21

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EXHIBIT B

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OCT 20 2005

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CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

22852 7590 09/21/2005

FINNEGAN, HENDERSON, FARABOW, GARRETT &
DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

10/21/2005 MBEYENE2 00000086 09845162

31 FC:1501 1400.00 OP

32 FC:1501 APPLICATION NO. FILING NO. 000000 OP

09/845,162

05/01/2001

Dennis W. Wahr

08386.0003

2628

TITLE OF INVENTION: EMBOLI PROTECTION DEVICES AND RELATED METHODS OF USE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$700 \$1,400	\$300	\$1000 \$1700	12/21/2005

EXAMINER	ART UNIT	CLASS-SUBCLASS
MENDEZ, MANUEL A	3763	604-509000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 FINNEGAN, HENDERSON,
FARABOW, GARRETT &
2 DUNNER, LLP
3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

Velocimed, Inc.

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Maple Grove, Minnesota

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☒ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:

- ☒ Issue Fee
- ☒ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies

4b. Payment of Fee(s):

- ☒ A check in the amount of the fee(s) is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☒ The Director is hereby authorized to charge the required fee(s), or credit any overpayment, to Deposit Account Number 06-0916 (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
- ☒ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above. NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature

Elizabeth M. Burke

Date

10/20/05

Typed or printed name

Elizabeth Burke

Registration No. 38,758

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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Applicant: WAHR et al.

Serial No.: 09/845,162

For: EMBOLI PROTECTION DEVICES AND RELATED METHODS OF USE

Attorney: JCK/DKW

Docket No.: 891,144-005

Please acknowledge receipt of the following by affixing hereon the Patent and Trademark Office date stamp and returning this card to our office.

Enclosures:

1. Request for Continued Examination (RCE) Transmittal (in duplicate)
2. Information Disclosure Statement
3. PTO Form-SB/08 (2 pages) with a copy of one (1) International Search Rpt.
4. Receipt verification postcard

Date of Deposit: May 23, 2006

First Class mail

NB1:685418.1

Applicant: WAHR et al.

Serial No.: 09/845,162

For: EMBOLI PROTECTION DEVICES AND RELATED METHODS OF USE

Attorney: JCK/DKW

Docket No.: 891,144-005

Please acknowledge receipt of the following by affixing hereon the Patent and Trademark Office date stamp and returning this card to our office.

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Date of Deposit: May 23, 2006

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Request for Continued Examination (RCE) Transmittal Address to: Mail Stop RCE Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Application Number	09/845,162
	Filing Date	May 1, 2001
	First Named Inventor	WAHR
	Art Unit	3763
	Examiner Name	MENDEZ, MANUEL A.
	Attorney Docket Number	891,144-005

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.
 Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____

ii. ☐ Other _____

b. ☒ Enclosed

i. ☐ Amendment/Reply

ii. ☐ Affidavit(s)/ Declaration(s)

iii. ☒ Information Disclosure Statement (IDS)

iv. ☐ other _____

2. **Miscellaneous**

Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for

a. ☐ period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

b. ☐ Other _____

3. **Fees**

The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.
 The Director is hereby authorized to charge the following fees any underpayment of fees or credit any overpayments to

a. ☒ Deposit Account No. 50-2862. I have enclosed a duplicate copy of this sheet.

i. ☐ RCE fee required under 37 CFR 1.17(e)

ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17)

iii. ☐ Other _____

b. ☐ Check in the amount of \$ _____ enclosed

c. ☐ Payment by credit card (Form PTO-2038 enclosed)

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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Signature	<i>Diane K. Wong</i>	Date	May 23, 2006
Name (Print/Type)	Diane K. Wong	Registration No.	54,550

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below

Signature	<i>Cynthia B. Pacheco</i>	Date	May 23, 2006
Name (Print/Type)	Cynthia B. Pacheco		

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

WAHR et al.

Serial No.: 09/845,162

Filed: May 1, 2001

**For: EMBOLI PROTECTION DEVICES
AND RELATED METHODS OF USE**

Group Art Unit: 3763

Examiner: MENDEZ, MANUEL A.

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with 37 CFR §§ 1.97 and 1.98, the items identified in this Information Disclosure Statement ("IDS") are brought to the attention of the Office. The items are listed on the attached form PTO-SB/08. Also attached is a copy of an International Search Report for a related application. Please note that the references included in said International Search Report have been cited in Information Disclosure Statement(s) previously submitted.

The items identified in this IDS may or may not be "material" pursuant to 37 CFR § 1.56. The submission thereof by Applicant is not to be construed as an admission that any such patent, publication or other information referred to therein is material or considered to be material (37 CFR § 1.97(h)), or even qualifies as "prior art" under 35 USC § 102 with respect to this invention unless specifically designated by Applicant as such.

INFORMATION DISCLOSURE STATEMENT FILING PROVISION:

☒ This IDS is believed to be timely in that it is being submitted under 37 CFR § 1.97(b), that is (1) within three months of the filing date of the application, which is not a continued prosecution

CERTIFICATE OF MAILING (37 C.F.R. §1.8)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class mail in an envelope addressed to the Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

May 23, 2006
Date of Deposit
NB1:680526.1


Cynthia B. Pacheco

application filed under § 1.53(d); or (2) within three months of entry of the national stage as set forth in 37 CFR § 1.491; or (3) before the mailing of a first Office action on the merits; or (4) before the mailing of a first Office action after filing a request for continued examination under § 1.114. Thus, no fee is required.

- ☐ However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and charge the fee due under 37 CFR § 1.17(p) to the deposit account referenced below.
- ☐ However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and a statement under 37 CFR § 1.97(e) is included below, thus no fee is required.
- ☐ This IDS is being submitted under 37 CFR § 1.97(c), that is after mailing of a first Office action on the merits, but before a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311.
 - ☐ The fee due under 37 CFR § 1.17(p) is submitted herewith.
 - ☐ A statement under 37 CFR § 1.97(e) is included below, thus no fee is required. In the event that this IDS is not received before a Final Action or a Notice of Allowance, then Applicant respectfully requests that the Office consider the filing of these papers to be submitted under 37 CFR § 1.97(d) and charge the fee due under 37 CFR § 1.17(p) to the deposit account below.
- ☐ This IDS is being submitted under 37 CFR § 1.97(d), that is after a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311, but before payment of the issue fee. A statement under 37 CFR § 1.97(e) is included below. The fee due under 37 CFR § 1.17(p) is submitted herewith.

Statement Under 37 CFR § 1.97(e):

- ☐ Each item contained in this IDS was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS.
- ☐ No item contained in this IDS was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing this statement after making reasonable inquiry, no item of information contained in this IDS was known to any individual designated in 37 CFR § 1.56(c) more than three months prior to the filing of this IDS.

PAYMENT AND/OR AUTHORIZATION TO CHARGE FEES:

- ☐ A check in the amount of \$180.00 is enclosed for the above fee(s).
☐ Please charge \$180.00 to Deposit Account No. **50-2862** for the above fee(s).

The Commissioner is authorized to charge any fees required by the filing of these papers, and to credit any overpayment to O'Melveny and Myers' Deposit Account No. **50-2862**.

Respectfully submitted,

O'MELVENY & MYERS LLP

Dated: May 23, 2006

By: Diane K. Wong

Diane K. Wong
Reg. No. 54,550
Attorneys for Applicant

DKW

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PATENT COOPERATION TREATY

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference 8386.3-2304	FOR FURTHER ACTION <small>see Notification of Transmittal of International Search Report (Form PCT/ISA/220) as well as, where applicable, item 5 below.</small>	
International application No. PCT/US 02/ 28141	International filing date (day/month/year) 26/09/2002	(Earliest) Priority Date (day/month/year) 09/08/2002
Applicant VELOCIMED, L. L. C.		

This International Search Report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This International Search Report consists of a total of 10 sheets.

☐ It is also accompanied by a copy of each prior art document cited in this report.

1. Basis of the report

a. With regard to the language, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ the international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).

b. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international search was carried out on the basis of the sequence listing :

☐ contained in the international application in written form.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority in written form.

☐ furnished subsequently to this Authority in computer readable form.

☐ the statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.

☐ the statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished

2. ☒ Certain claims were found unsearchable (See Box I).

3. ☒ Unity of invention is lacking (see Box II).

4. With regard to the title,

☒ the text is approved as submitted by the applicant.

☐ the text has been established by this Authority to read as follows:

5. With regard to the abstract,

☒ the text is approved as submitted by the applicant.

☐ the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box III. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. The figure of the drawings to be published with the abstract is Figure No.

☐ as suggested by the applicant.

☐ because the applicant failed to suggest a figure.

☐ because this figure better characterizes the invention.

☒ None of the figures.

INTERNATIONAL SEARCH REPORT

International application No.
PCT/US 02/28141

Box I Observations where certain claims were found unsearchable (Continuation of item 1 of first sheet)

This International Search Report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:

1. ☒ Claims Nos.: **89-118, 140-143, 147-153, 155-158**
because they relate to subject matter not required to be searched by this Authority, namely:
Rule 39.1(iv) PCT - Method for treatment of the human or animal body by surgery
2. ☐ Claims Nos.:
because they relate to parts of the International Application that do not comply with the prescribed requirements to such an extent that no meaningful International Search can be carried out, specifically:
3. ☐ Claims Nos.:
because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a).

Box II Observations where unity of invention is lacking (Continuation of item 2 of first sheet)

This International Searching Authority found multiple inventions in this international application, as follows:

see additional sheet

1. ☐ As all required additional search fees were timely paid by the applicant, this International Search Report covers all searchable claims.
2. ☐ As all searchable claims could be searched without effort justifying an additional fee, this Authority did not invite payment of any additional fee.
3. ☐ As only some of the required additional search fees were timely paid by the applicant, this International Search Report covers only those claims for which fees were paid, specifically claims Nos.:
4. ☒ No required additional search fees were timely paid by the applicant. Consequently, this International Search Report is restricted to the invention first mentioned in the claims; it is covered by claims Nos.:
1-23, 144

Remark on Protest

- ☐ The additional search fees were accompanied by the applicant's protest.
- ☐ No protest accompanied the payment of additional search fees.

FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 210

This International Searching Authority found multiple (groups of) inventions in this international application, as follows:

1. claims: 1-23,144

Evacuation sheath assembly comprising three lumens, first and second sealing surfaces and a shaft.

2. claims: 24-42

Evacuation sheath assembly with a distal sealing surface including a proximal cone portion and a distal cone portion

3. claims: 43,44

Evacuation sheath assembly wherein the proximal end of the evacuation lumen is angled and includes a reverse bevel portion

4. claims: 45-58

Evacuation sheath assembly wherein the open proximal end of the evacuation lumen includes a structure to reinforce the proximal opening of the elongated tube

5. claims: 59-64,123-125

Evacuation sheath assembly with a kink-resistant coil and a marker band

6. claims: 65,66

Evacuation sheath assembly wherein the distal sealing surface extends distally beyond the distal end of the evacuation lumen

7. claims: 67-88

Combination for isolating fluid communication between a blood vessel and a catheter with a three-arm adaptor

8. claims: 119-122,128-136

Evacuation sheath assembly with a elongate hollow member wherein the proximal end is flared

FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 210

9. claims: 126,127

aims: 126,127

Combination for isolating fluid communication between a
blood vessel and a catheter with an obturator between a
---atheter with an obturator

10. claims: 137-139

laims: 137-139

Combination for isolating fluid communication between a
blood vessel and a catheter with an obturator wherein the
distal end includes a balloon with an obturator wherein the
---a balloon

11. claims: 145,146,154

laims: 145,146,154

Combination for isolating fluid communication between a
blood vessel and a catheter with an infusion catheter a
---atheter with an infusion catheter

FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 210

Continuation of Box I.1

Claims Nos.: 89-118,140-143,147-153,155-158

Rule 39.1(iv) PCT - Method for treatment of the human or animal body by surgery

The applicant's attention is drawn to the fact that claims relating to inventions in respect of which no international search report has been established need not be the subject of an international preliminary examination (Rule 66.1(e) PCT). The applicant is advised that the EPO policy when acting as an International Preliminary Examining Authority is normally not to carry out a preliminary examination on matter which has not been searched. This is the case irrespective of whether or not the claims are amended following receipt of the search report or during any Chapter II procedure. If the application proceeds into the regional phase before the EPO, the applicant is reminded that a search may be carried out during examination before the EPO (see EPO Guideline C-VI, 8.5), should the problems which led to the Article 17(2) declaration be overcome.

INTERNATIONAL SEARCH REPORT

International Application No

PCT/US 02/28141

A. CLASSIFICATION OF SUBJECT MATTER
 IPC 7 A61B17/12 A61M25/10

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

IPC 7 A61B A61M

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EPO-Internal

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 6 423 032 B2 (PARODI JUAN CARLOS) 23 July 2002 (2002-07-23) column 9, line 23 - line 65; figures 6A,6B	1-4
Y	-----	5-12,14
Y	US 5 108 414 A (ENDERLE JOYCE A ET AL) 28 April 1992 (1992-04-28) figure 3	5-12
A	-----	13
Y	US 2001 037085 A1 (EUTENEUER CHARLES L ET AL) 1 November 2001 (2001-11-01) page 50, paragraph 5; figure 4	14
A	US 5 453 099 A (KARAKELLE MUTLU ET AL) 26 September 1995 (1995-09-26) column 3, line 30 - line 36; figure 4 ----- -/--	16

☒ Further documents are listed in the continuation of box C.

☒ Patent family members are listed in annex.

* Special categories of cited documents :

"A" document defining the general state of the art which is not considered to be of particular relevance

"E" earlier document but published on or after the international filing date

"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)

"O" document referring to an oral disclosure, use, exhibition or other means

"P" document published prior to the international filing date but later than the priority date claimed

"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.

"&" document member of the same patent family

Date of the actual completion of the international search

7 April 2003

Date of mailing of the international search report

10. 09. 2003

Name and mailing address of the ISA

European Patent Office, P.B. 5818 Patentlaan 2
 NL - 2280 HV Rijswijk
 Tel. (+31-70) 340-2040, Tx. 31 651 epo nl,
 Fax: (+31-70) 340-3016

Authorized officer

Ducrau F.

INTERNATIONAL SEARCH REPORT

International Application No

PCT/US 02/28141

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
A	WO 00 44429 A (MICRO THERAPEUTICS INC) 3 August 2000 (2000-08-03) page 5, line 17 - page 6, line 15; figure 2 -----	20,22
A	US 2002 022859 A1 (HOGENDIJK MICHAEL) 21 February 2002 (2002-02-21) figure 2C -----	1,3
A	US 6 398 773 B1 (BAGAOISAN CELSO J ET AL) 4 June 2002 (2002-06-04) column 8, line 52 - column 9, line 29; figures 5-7B -----	1
A	US 6 126 635 A (SIMPSON JOHN B ET AL) 3 October 2000 (2000-10-03) the whole document -----	1

INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/US 02/28141

Patent document cited in search report	Publication date	Patent family member(s)	Publication date
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(patent family annex) (July 1992)

INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/US 02/28141

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0 (patent family annex) (July 1992)

II () NATIONAL SEARCH REPORT ()

Information on patent family members

International Application No

PCT/US 02/28141

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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Substitute for form 1449A-PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Use as many sheets as necessary)				Complete If Known	
				Application No.	09/845,162
				Filing Date	May 1, 2001
				First Named Inventor	WAHR
				Art Unit	6763
				Examiner Name	M. Mendez
Sheet	1	of	2	Attorney Docket No.	891,144-005

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. ¹	Document No.	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code ² (if known)			
	1.	us-20020177800	11/2002	Bagaoisan	
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	21.	us-6,786,888	09/2004	Zadno-Azizi	
	22.	us-6,790,204	09/2004	Zadno-Azizi	
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	25.	us-6,830,577	12/2004	Nash	
	26.	us-6,843,797	1/2005	Nash	
	27.	us-6,905,505	06/2005	Nash	

Examiner Signature	Date Considered
NB1:680535.1	

*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. 1 Applicant's unique citation designation number (optional). 2 See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. 3 Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). 4 For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. 5 Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. 6 Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

(Use as many sheets as necessary)

Complete if Known

Application No. 09/845,162

Filing Date May 1, 2001

First Named Inventor	WAHR
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Art Unit 6763

Examiner Name	M. Mendez
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Attorney Docket No. 891,144-005

Sheet

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U.S. PATENT DOCUMENTS

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Action Item
Due Date
Critical Date
Attorney Path JCK/OKW
Docketed By

COPY MAILED

MAY 24 2006

OFFICE OF PETITIONS

In re Application of Dennis W. Wahr et al
Application No. 09/845,162
Filed: May 1, 2001
Attorney Docket No. 891,144-005
DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed May 23, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is GRANTED.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 20, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3763 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

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¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B - Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85)."